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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 SEAPLANE ADVENTURES, LLC, a
11 California Limited Liability Company,

12 Plaintiff,

13 vs.

14 COUNTY OF MARIN, CALIFORNIA;
15 AND DOES 1 THROUGH 10,
INCLUSIVE,

16 Defendants.
17
18

Case No. 20-cv-06222-WHA

DECLARATION OF PATRICK SCANLON IN
SUPPORT OF PLAINTIFF'S OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT

Complaint filed: September 2, 2020
Trial Date: December 8, 2021

DATE: October 7, 2021
TIME: 8:00AM
JUDGE: Honorable William Alsup
DEPT.: Courtroom 12, 19th Floor

19 I, Patrick Scanlon, declare as follows:

- 20 1. I am over the age of eighteen years old, and I make this declaration in support of Plaintiff's
21 Opposition to Motion for Summary Judgment. I have personal knowledge of the facts stated
22 herein and, if called as a witness in this matter, I could and would competently testify to the
23 facts set forth below.
- 24 2. I am the founder and current owner of Scanlon Aviation, LLC ("Scanlon"), which is an
25 airline certified under 14 Code of Federal Regulations Part 135 ("Part 135"). I am also a
26 certified flight instructor, and multi-engine, instrument rated. I earned the Part 135 Air
27 Carrier certificate from the Federal Aviation Administration ("FAA") in 2007, and soon
28 thereafter, I started doing air charter service with my first Cirrus SR22.

- 1 3. Scanlon Aviation is a Part 135 Air Carrier, FAA Certificate number SLAA729L.
- 2 4. Part 135 does not distinguish between “recreational charter flights” and other charter flights.
- 3 As such, during the time the Health Orders, with which I am familiar, were in effect, and
- 4 continuing through today, Scanlon Aviation operated/operates for all purposes it was/is
- 5 permitted to under Part 135. This includes, but is not limited to, booking and flying charter
- 6 flights throughout the state and flight instruction for recreational purposes or otherwise.
- 7 Scanlon Aviation did not limit these flights to any particular category or group of passengers
- 8 and/or activity; and did not limit these flights to “essential workers,” or “essential activities,”
- 9 as those terms are defined under the Health Orders.
- 10 5. Scanlon Aviation operates out of Gness Field Airport, which is owned by the County of
- 11 Marin, and is located at 451 Airport Road, Novato, CA 94945. Scanlon Aviation operates air
- 12 tours, charter flights, and flight instruction.
- 13 6. Scanlon Aviation was never shut down by the County pursuant to any of the Health Orders
- 14 related to Covid-19, or otherwise. Although I was aware of the Health Orders, I did not
- 15 believe that they applied to Part 135 air carriers, as we are regulated by the FAA—which
- 16 considered aviation part of essential infrastructure.
- 17 7. I was never told by the County of Marin, or anyone else, that Scanlon’s operations were to be
- 18 limited under the Health Orders, and Scanlon was at all times was permitted to fully operate,
- 19 including for charter flights and flight school. It was an is my understanding that airlines
- 20 were deemed an “essential business,” and therefore permitted to fully operate despite the
- 21 Health Orders.
- 22 8. The County was aware that Scanlon was operating during the time the Health Orders were in
- 23 effect. In fact, I sent the County a copy of Scanlon Aviation’s COVID-19 Mitigation Plan
- 24 (“Site Specific Protection Plan” or “SPP”) via email on May 4, 2020. The County also knew
- 25 that I was not limiting my operations in any way pursuant to the Health Orders, other than as
- 26 outlined in my Site Specific Protection Plan. As Scanlon’s SPP states, “The Marin County
- 27 ‘shelter in place’ and the California statewide lockdown as well as the Federal pandemic
- 28

1 guidelines have deemed Flight School, air charter and aircraft maintenance as essential parts
2 of the transportation infrastructure..." A true and correct copy of my May 4, 2020 email and
3 Scanlon's SPP are attached hereto as **Exhibit A**.

4 9. I am personally aware that other airlines were operating out of Gness Field under Part 135
5 (for charter flights, flight instruction, and otherwise) during the time the Health Orders were
6 in effect, and that none of these airlines were shut down by the County pursuant to the Health
7 Orders. These airlines include CB SkyShare, Surf Air, and Ward Aviation. Due to its
8 ownership of Gness field, and the presence of its manager on site, the County was aware that
9 these airlines were operating, but did not shut them down.

10 10. The County did shut down a skydiving business at Gness Field, Skydive Golden Gate—but,
11 this is the only airline operating out of Gness Field Airport that the County of Marin forced
12 to cease operations pursuant to the Health Orders.

13 I declare under penalty of perjury under the laws of the United States that the foregoing is true
14 and correct. Executed this 16th day of September, 2021, at San Rafael, California.

15
16
17 _____
18 Patrick Scanlon

19
20 **SIGNATURE ATTESTATION**

21 I hereby attest that I have on file all holographic signatures corresponding to any
22 signatures indicated by a conformed signature (/s/) within this e-filed document.

23 Dated: September 16, 2021

LAW OFFICES OF JOHN E. SHARP

24 By: _____
25 John E. Sharp

26 Attorney for Plaintiff
27 SEAPLANE ADVENTURES, LLC
28

EXHIBIT A

From: [Patrick Scanlon](#)
To: [Jensen, Dan](#)
Subject: COVID-19 Mitigation Plan
Date: Monday, May 04, 2020 2:06:50 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[Personal Checklist and Self-Declaration.pdf](#)
[Scanlon COVID-19 Mitigation Plan R1.docx](#)

Hi Dan,

Here is a copy of both the Scanlon Aviation COVID-19 Mitigation Plan and the Personal Checklist and Declaration form I discussed with you earlier.

I will be creating a stand-alone air charter plan to be sent to all charter customer at the time of booking.

Patrick

Patrick H. Scanlon

President

Scanlon Aviation, LLC

451 Airport Road

Novato, CA 94945

Office: 415-897-9787

Mobile: 415-717-1189

Email: Patrick@scanlonaviation.com





Covid-19 Personal Checklist and Self-Declaration

The safety of our employees our clients remain Scanlon Aviation's overriding priority. As the coronavirus disease 2019 (COVID-19) outbreak continues to evolve and spreads globally, Scanlon Aviation is monitoring the situation closely and will periodically update company guidance based on current recommendations from the Centers for Disease Control and Prevention.

To help prevent the spread of COVID-19 and reduce the potential risk of exposure to employees and clients, we are conducting a simple screening questionnaire. Your participation is an important part of our efforts contributing to the fight against COVID-19 global pandemic. Thank you!

Print Name: _____ Phone Number: _____ Mobile/Home

1. Have you recently traveled, or have you been in close contact with anyone who has traveled outside the United States in the past 14 days?
Yes ☐ No ☐
2. Have you or a member of your household been exposed to COVID-19?
Yes ☐ No ☐
3. Have you been in close contact with anyone diagnosed with COVID-19?
Yes ☐ No ☐
4. Are you experiencing any symptoms such as fever, cough, shortness of breath, difficulty breathing, chills, headache, sore throat, new loss of taste or smell in the past 14 days?
Yes ☐ No ☐

Notifications:

1. It may be required to take your temperature prior to the flight. If so, a no contact medical grade thermometer will be used.
2. A face covering will be required to be worn from just before boarding until after deplaning.

Signature: _____

Date: _____



SCANLON AVIATION COVID-19 MITIGATION PLAN

The Marin County "Shelter in Place" and the California statewide lockdown as well as the Federal pandemic guidelines have deemed Flight School, air charter and aircraft maintenance as essential parts of the transportation infrastructure. Despite this Scanlon Aviation on March 15, 2020 temporarily suspended all dual flight instruction and air charter service until more information was available for us to develop this COVID-19 mitigation plan.

The procedures listed in this COVID-19 Mitigation Plan will continue to evolve in order to maintain the best practices and allow Scanlon Aviation and our students and clients to do our part during this pandemic.

We realize these procedures add an extra level of inconvenience to our flying, however we hope you understand and embrace this attempt to do our part as we participate in one of the most fulfilling activities one can be involved in. Thank you for being a part of our flying community.

The Scanlon Aviation Team

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General Procedures

- Facilities and aircraft are available by appointment only during this time.
- All Scanlon Aviation personnel, renter pilots and student pilots will be asked to fill out a questionnaire and self-declaration form.
- If you are feeling ill, please stay at home and contact your healthcare provider. Follow the guidance of your health care provider and the Marin Health department to determine when to discontinue home isolation.
- All personnel should wash their hands upon arriving at our facilities.
- People should remain six (6) feet apart when not in an airplane even when wearing cloth face mask.
- No persons other than Scanlon Aviation employees are allowed in the maintenance facility.
- When using personal protective equipment please follow the guideline of the CDC, State of California and the local health department.

Maintenance Shop Procedures

- The maintenance shop door from the office corridor will remain locked at all times.
- Personnel will sanitize all common areas at the start of each workday and after each break.
- All personnel will wash hands upon entering the shop with soap and water (as described in the CDC Guidance section of this document), at least once an hour and after every break.
- Cloth face masks will be worn by all personnel working in are accessing the maintenance shop. Scanlon Aviation will furnish washable face masks; however, you may bring your own cloth mask. The cloth covering should:
 - Fit snugly but comfortably against the side of the face
 - Be secured with ties or ear loops
 - Include multiple layers of fabric
 - Allow for breathing without restriction
 - Be able to be laundered and machine dried without damage or change to shape

Flight Training Procedures

- Instructors, students and solo pilots shall wash hands prior to heading out to the plane and immediately upon returning to the office areas.
- Instructors and students shall wear cloth face masks while meeting prior to the flight and during the flight.
- The use of thin gloves is strongly recommended.
- During the flight lesson the instructor should strive to not touch any knobs or controls not necessary for the safety of the flight to reduce touching the same surfaces as the student. (We will meet regularly to discuss best practices associated with this)
- All Scanlon Aviation flight instructors and maintenance personnel will be trained proper airplane sanitizing procedures.
- Instructors will control the airplane keys and ensure they are sanitized before giving them to students and then again after receiving them back from students.
- Before and after the flight the instructor will wipe down all the controls, knobs switches, handles, etc. that are touched as a normal part of operating the aircraft. Please comply with the cleaning procedures listed in the Airplane Sanitizing Procedures section. All instructors, and renter pilots will be trained in these sanitizing procedures.
- Bring your own headset as rental headsets will no longer be available.
- Have Fun!

Airplane Sanitizing Procedures

- Sanitizing starts with all personnel washing their hands prior or if soap and water are not available, using hand sanitizer prior to heading out to the plane.
- Each plane will be furnished with isopropyl alcohol spray bottles along with the blue shop towels. These are to be stored in the supply caddy in the storage area of the plane. Spray the isopropyl alcohol on the towel first and then use the towel to wipe down the surfaces that are frequently touched in the aircraft. (Don't forget the keys)
- Do not spray the panel directly as over spraying will cause damage to the avionics and switches.
- All glass panels in the airplanes should be cleaned with the provided iCloth Avionics wipes. Gently wipe off any dust, then turn over the cloth to clean off any fingerprints.
- All cleaning cloths are to be placed in plastic bag and disposed of by instructor after each flight.
- Please remove all trash from the plane after every flight.

CDC Guidance

Person-to-person spread

- The COVID-19 virus is thought to spread mainly from person-to-person.
- It is highly contagious and can be spread by people who are asymptomatic as well as symptomatic
- The virus will spread between people who are in close contact with one another (within about 6 feet).
- The virus spreads through respiratory droplets produced when an infected person breathes, coughs or sneezes.
- These droplets can land in the eyes, mouths or noses of people who are nearby or possibly be inhaled into the lungs.
- ***Facial coverings are primarily designed to capture these respiratory droplets emanating from the wearer. NOT as a filter or protection from aerosolized droplets in the air.***

Can someone spread the virus without being sick?

- Yes, recent studies are increasingly suggesting that COVID-19 may be spread by people who are not showing symptoms.
- People are thought to be most contagious when they are most symptomatic (the sickest).
- Some spread might be possible before people show symptoms; there have been reports of this occurring with this new coronavirus, but this is not thought to be the main way the virus spreads.

Spread from contact with contaminated surfaces or objects

- It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.
 - There is no conclusive evidence, but it is possible that the virus can remain on surfaces for hours or even days.

Symptoms

- Fever
- Cough
- Shortness of breath or difficulty breathing
- Chills
- Repeated shaking with chill
- Muscle pain
- Headache
- Sore throat
- New loss of taste or smell

Steps to Prevent Illness

- Wash your hands often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, use a hand sanitizer that contains at least 60% alcohol. Cover all surfaces of your hands and rub them together until they feel dry.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Avoid close contact with people who are sick.
- Put distance between yourself and other people (at least 6 feet)
 - Remember that some people without symptoms may be able to spread the virus.
- Cover your mouth and nose with a cloth face cover when around others
 - You could spread COVI-19 to others even if you do not feel sick.
 - **The face cover is meant to protect other people in case you are infected.**
 - Continue to keep about 6 feet between yourself and others. The face cover is not a substitute for social distancing.
- Cover coughs and sneezes
- Clean and disinfect frequently touched surfaces

Useful Resources

The Center for Disease Control: www.cdc.gov

California Cove-19 Response: <https://covid19.ca.gov/>

Air Charter Procedures

- Pilot and passengers should wash hands prior to heading to the airplane. If soap and water are not available hand sanitizer can be used. Scanlon Aviation will have hand sanitizer available.
- Pilot and passengers will wear cloth or disposable face masks. Passengers may bring their own cloth face mask, or a disposable mask will be furnished by Scanlon Aviation.
- All passengers will be asked to fill out a questionnaire and self-declaration form and send to Scanlon Aviation at least 24 hours before the flight
- Passengers may be asked to take their temperature before boarding the plane. A touchless medical grade laser thermometer will be used.